REMARKS/ARGUMENTS

Remarks with regards to Information Disclosure Statement

The Examiner states that the information disclosure statement filed 7/11/04 fails to comply with 37 CFR 1.98(a)(2), which requires legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed.

Remarks with regards to Specification

The Examiner has objected to the disclosure because of the following informalities: the specification includes incorrect spacing and capitalization found on pages 26-42 (specifically [0060], [0062], [0064-0066], [0069-0073], [0075], [0077], [0079-0081], [0085-0090], [0092-0094]). Applicant made corrections to paragraphs [0060], [0063], [0066], [0068], [0087], [0090], [0093], and [0095] in response to some of the Examiner's objections. With respect to other paragraphs, Applicant respectfully requests the Examiner to provide the details particularly pointing out the parts of paragraphs containing informalities. Applicant notes that in the Application Publication No. 2005/002863 A1, there are several instances of title, subtitle and paragraph from the Application As Filed that got truncated into one paragraph, particularly paragraphs [0057], [0059], [0061-0063], [0065-0071], [0073], [0075-0077], and [0081-0086] in the Application Publication.

Claim remarks with regards to claims 13-26

Applicant herein cancels claims 13-26 and reserves the right to prosecute these claims in a continuation application.

Claim remarks with regards to 35 U.S.C. §112

The Examiner has rejected claim 10 under U.S.C. §112 for lack of antecedent basis with regards to the "said preferred food, food stuff or veterinary biologic" limitation. This claim has been amended to remove an antecedent basis for the limitation.

Claim remarks with regards to 35 U.S.C. §102

The Examiner has rejected claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Chandler et al. (U.S. Patent No. 4,777,058). Applicant respectfully disagrees that Chandler et al. describes a discrimination learning procedure. Chandler et al. describes a two-pan test method of dogs' preference for various foods, which depends heavily on the animal's consummatory behavior. There is no teachings by Chandler et al. of, for example, "presenting at least one animal with at least one distinct stimulus wherein each of said at least one distinct stimulus is associated with an identical reward;" (e.g., in Chandler et al., there is no identical reward from choosing either one of the distinct stimuli of smell or visual differences in food composition in this two-pan test). In the methods of Chandler et al., there is no stimulus preference test or associative session, including the recordation of stimuli chosen by the animal, which is distinct from recording the amount of the remaining food (reward).

It bears to repeat that there are several problems with this two-pan test method, some of them are 1) a moderately hungry dog is particularly likely to choose whatever food has the greater volume but same weight; 2) the grouped data shows high variability, requiring large sample sizes to achieve statistical significance; 3) individual animal data are unreliable, possibly because the animal simply continues eating the food they sampled first; 4) the procedure doesn't control for food interactions in which the presence of one food may alter the palatability of the other; and, 5) satiety effects are not controlled, e.g., some foods may produce rapid satiety, or feelings of fullness, thereby decreasing the total amount consumed.

The Examiner has rejected claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Rashotte et al. (1) (Neuroscience & Biobehavioral Reviews **1984**, 8, 211-215). With respect to

currently amended independent claim 1, neither of the operant conditioning methodolgy nor the concurrent schedules methodology as disclosed and suggested by the reference of <u>Rashotte et al. (1)</u> comprise a discrimination learning procedure comprising utilizing at least one stimulus preference test. The levers are identical in appearance and function, which do not constitute the distinct stimuli in the claim limitations. Furthermore, there is no identical reward from choosing at least one of distinct stimuli.

The Examiner has rejected claims 1-9 under 35 U.S.C. §102(b) as being anticipated by <u>Rashotte et al. (2)</u> (Neuroscience & Biobehavioral Reviews **1984**, 8, 231-237). With respect to some of the currently amended claims and the arguments as set above, there is no evidence in the methodology of <u>Rashotte et al. (2)</u> that animals associate the lighted symbols with food. There is no control for an animal's learning the association of stimulus with food preference (e.g., teaching as relates to the claim limitation for the animal's "choice of a preferred stimulus results in no reward"). The Examiner states "The experiment begins with a lever that produces a coated food always being marked by lighted rectangle (stimulus) above it while the lever produces an uncoated food was marked by a lighted circle (stimulus) above it (p232, paragraph 6), " it would be contrary to the limitations in the claims, particularly association session comprising "presenting said animal with at least one **non-preferred stimulus** associated with said food, food stuff or veterinary biologic, wherein said **non-preferred stimulus** is not most frequently chosen by said animal or chosen at a slower rate or chosen secondly or later from said preference test" (the emphasis in bold added).

Claim remarks with regards to 35 U.S.C. §103

The Examiner has rejected claims 1-12 under 35 U.S.C. §103(a) as being unpatentable over <u>Rashotte et al. (1)</u> (Neuroscience & Biobehavioral Reviews **1984**, 8, 211-215) in view of <u>Tapp et al.</u> (Learn Mem. **2003**, 10, 64-73). The Examiner has also rejected claims 1-12 under 35 U.S.C. §103(a) as being unpatentable over <u>Rashotte et al. (2)</u> (Neuroscience & Biobehavioral Reviews 1984, 8, 231-237) in view of <u>Tapp et al.</u> (Learn Mem. 2003, 10, 64-73).

Applicant respectfully disagrees that the combined references teach all of the limitations in claims 1-12 as amended for the reasons stated hereinabove. Particularly with the Examiner's stated assertion "The discrimination learning procedure involved rewarding the dog with the food when the preferred stimulus was chosen while displacement of a non-preferred stimulus results in no food reward (p70, column 2)," it bears to repeat herein that the assertion is contrary to the limitation of claims relating to discrimination training that the animal's "choice of a preferred stimulus results in no reward."

CONCLUSION

For at least the reasons stated herein, Applicant respectfully submits that the claims are in condition for allowance. If the Examiner differs in this conclusion, the Examiner is hereby requested to contact Applicant's representative for purposes of a telephone interview at the number listed below before any action (other than an allowance) is initiated.

Respectfully submitted,

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